the child was born in the natural course of events, cannot be deducted from the pain and suffering occasioned by the miscarriage, which resulted from the defendant's negligence.

The general rule in these cases undoubtedly is that whether the defendant's conduct be wanton and intentional, or negligent merely, he is liable for the entire consequences of his tortious act, including the woman's suffering and impaired health due to and consequent upon the miscarriage. *Mann Car. Co. v. Dupre,* 54 Fed. 646; *Shartle v. Minneapolis,* 17 Minn. 308. It has been said, however, that the measure of damages is the difference between what actually was suffered as a result of the injury and miscarriage, and the pain and suffering which would have been suffered if the child had been born at the proper time. *Joyce, Dann,* S. 185. The authority for this rule seems to be a statement in *Hawkins v. Front St. Ry. Co.,* 3 Wash. 592, 600, where it is said, "and so we have no doubt that, if Mrs. Hawkins shows impairment of health and suffering growing out of the death and premature birth of her child, which would not have attended its birth at the usual time, . . . respondents can recover for her suffering and impaired health." See also, *Berger v. Railway Co.,* 95 Minn. 84.

FRAUD—DECEPTION CONSTITUTING FRAUD.—ALDRICH V. SCRIBNER, 117 N. W. 581 (MICH.).—*Held,* that if a representation is false in fact, and actually deceives the one to whom it is made, it is actionable fraud, though made in good faith and with every reason to believe it is true. Montgomery, Blair and Ostrander, JJ., *dissenting.*

The general rule is that an action is maintainable for damages sustained from a false representation made by the defendant knowing it to be false, or without belief in its truth, or recklessly without caring whether it be true or false. *Derry v. Peek,* L. R. 14 App. Cas. 327; *Cooper v Schlesinger,* 111 U. S. 148; *Kountze v. Kennedy,* 147 N. Y. 124. There can be no fraud without moral delinquency. *Crowell v. Jackson,* 53 N. J. Law, 656. It is not enough to show that the representations were made through mistake, ignorance, or carelessness, or without reason to believe that they were true. *Mentzer v. Sargeant,* 115 Ia. 527. In Michigan it is immaterial whether the false representation is made innocently or fraudulently, if by its means the party to whom it is made is injured. *Totten v. Burhans,* 91 Mich. 495. False statements have been held actionable if they were made without reasonable grounds to believe them to be true. *Trimble v. Reid,* 97 Ky. 713; *Rowell v. Chase,* 61 N. H. 135; *Ramsay v. Wallace,* 100 N. C. 75. If the defendant stated as of his own knowledge, material facts susceptible of knowledge which were false, although he did not know them to be false, that he believed them to be true is no defence. *Litchfield v. Hutchinson,* 117 Mass. 195; and this Mass. doctrine has been followed in Indiana, Minnesota, Wisconsin, New Hampshire and New Jersey.

LANDLORD AND TENANT—WASTE—LIABILITY OF LESSEE—ACTS OF STRANGER.—RIMOLDI V. HUDSON GUILD, 110 N. Y. SUPP. 881. *Held,* that removal by a stranger of things fixed to the freehold without knowledge of the lessee does not render the latter liable for voluntary waste.

The courts seem to differ on this question, but still the decided weight

of opinion is against the above decision. *Powell v. D. S. & G. R. Ry. Co.*, 16 Or. 33; contra, *Coale v. Hannibal & St. Joseph Ry Co.*, 60 Mo. 227. In general, the courts hold that an action on the case may be maintained either against the tenant who suffered the waste or the stranger who committed it. *Parrott v. Barney*, Fed. Cas. No. 10,773a. The courts that hold the lessee responsble hold him so for all injuries done during his term, with the exception of the acts of God or of public enemies and the acts of the lessor himself. *White v. Wagner*, 7 Am. Dec. 674 (Md.); 1 Wash. *Real Property*, § 34, 35. This liability rests upon the principles of public policy. *Wood v. Griffin*, 46 N. H. 230; *Randall v. Cleaveland*, 6 Conn. 328.

MASTER AND SERVANT—LIABILITIES FOR INJURIES TO THIRD PERSONS—ACTS OF SERVANT.—CUNNINGHAM V. CASTLE, 111 N. Y. SUPP. 1057.—Where, in an action for injuries through being struck by an automobile owned by the defendant and operated by his chauffeur, it appeared that the chauffeur was using the machine at the time of the accident for his own purposes, it was *held*, that defendant was not liable. Houghton, McLaughlin, J. J., *dissenting*.

The general rule of law that one person receiving an injury by the negligence of another, must look for his remedy to him by whose negligance the injury was occasioned, is subject to the exception, that if the negligent person is a servant acting within the scope of his master's business, the person sustaining the injury can hold the master responsible. *Chcago, Ry. Co. v. West*, 125 Ill. 320; *Ochsenbein v. Shapley*, 85 N. Y. 214. But the test of the master's liability in these cases is not whether a given act was done during the existence of the servant's employment, it is whether such act was done by the servant while engaged in the service of, and while acting for the master in the prosecution of the master's business. *Lima Ry. Co. v. Little*, 67 Ohio St. 91; *Brown v. Jarvis*, 166 Mass. 75.

RAILWAYS—ACCIDENTS AT CROSSING—EVIDENCE—ADMISSIBILITY—PRIOR SIMILAR OCCURRENCE.—WOODWORTH V. DETROIT UNITED RY., 116 N. W. 549 (MICH.).—*Held*, that where the decedent's wagon caught between rail of the track and the planking of a diagonal crossing so that a car ran into it, evidence that other rigs had been struck at the same crossing from the same cause within two years is admissible, notwithstanding the defendant admitted full knowledge of the condition of the crossing for six months previous to the accident in question, for it was proper to show negligence in view of the danger.

Testimony may be given by witnesses familiar with the place of the accident as to narrow escapes they have had at the same crossing, for the purpose of showing the nature of the crossing. *Chi. & N. W. Ry. Co. v. Netolicky*, 67 Fed. 665. But in *Menard v. Bos. & Me. Rd. Co.*, 150 Mass. 386 evidence offered to show that other accidents had occurred at same crossing within a short time were not admissible. And evidence of similar occurrences on other occasions is not admissible to raise a presumption that the place where the accident occurred was defective or dangerous. *The Clev., Col., Cin. & Indianapolis Ry. Co. v. Walnut*, 114 Ind. 527; *Tiffin v. St. Louis, I. M. & S. Ry. Co.*, 93 S. W. 564 (Ark.). So, in an action for injuries received at a crossing, it is not competent for a witness to testify as to the occurrence of an